

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

DISH NETWORK CORPORATION	)	
(F/K/A ECHOSTAR	)	
COMMUNICATIONS CORPORATION),	)	
ECHOSTAR DBS CORPORATION,	)	
ECHOSTAR TECHNOLOGIES LLC	)	
(F/K/A ECHOSTAR TECHNOLOGIES	)	
CORPORATION), ECHOSPHERE LLC,	)	
AND DISH NETWORK LLC (F/K/A	)	
ECHOSTAR SATELLITE LLC),	)	C.A. No. 08-327-JJF
	)	
Plaintiffs,	)	
v.	)	
	)	
TIVO INC.,	)	
Defendant.	)	

**DEFENDANT TIVO'S**  
**MOTION TO DISMISS DECLARATORY SUIT**

Defendant TiVo Inc. ("TiVo") hereby respectfully moves, pursuant to Rule 12(b) of the Federal Rules of Civil Procedure, that all claims against it in the above action be dismissed based on the Court's discretion to decline jurisdiction under 28 U.S.C. § 2201.

The grounds for this motion are fully set forth in the accompanying opening brief and in the supporting declaration of William D. Bowen. For the Court's convenience, a proposed form of order is attached hereto.

ASHBY & GEDDES

*/s/ Tiffany Geyer Lydon*

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Steven J. Balick (I.D. #2114)  
John G. Day (I.D. #2403)  
Tiffany Geyer Lydon (I.D. #3950)  
500 Delaware Avenue, 8th Floor  
P.O. Box 1150  
Wilmington, DE 19899 (19801 for courier)  
(302) 654-1888  
[sbalick@ashby-geddes.com](mailto:sbalick@ashby-geddes.com)  
[jday@ashby-geddes.com](mailto:jday@ashby-geddes.com)  
[tlydon@ashby-geddes.com](mailto:tlydon@ashby-geddes.com)

*Attorneys for Defendant TiVo Inc.*

*Of Counsel:*

IRELL & MANELLA LLP  
Morgan Chu  
Christine Byrd  
Laura W. Brill  
Alexander C. Giza  
William D. Bowen  
1800 Avenue of the Stars, Suite 900  
Los Angeles, CA 90067  
(310) 277-1010

Dated: July 7, 2008

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FOR THE DISTRICT OF DELAWARE

DISH NETWORK CORPORATION	)	
(F/K/A EHOSTAR	)	
COMMUNICATIONS CORPORATION),	)	
EHOSTAR DBS CORPORATION,	)	
EHOSTAR TECHNOLOGIES LLC	)	
(F/K/A EHOSTAR TECHNOLOGIES	)	
CORPORATION), ECHOSPHERE LLC,	)	
AND DISH NETWORK LLC (F/K/A	)	
EHOSTAR SATELLITE LLC),	)	C.A. No. 08-327-JJF
	)	
Plaintiffs,	)	
v.	)	
	)	
TIVO INC.,	)	
Defendant.	)	

**ORDER**

This \_\_\_\_\_ day of \_\_\_\_\_, 2008, the Court has considered defendant TiVo Inc.'s motion to dismiss in the above action and has concluded that good grounds exist for the requested relief.

This Court has discretion to decline jurisdiction over the present declaratory judgment claim pursuant to 28 U.S.C. § 2201. It appears to the Court that the exercise of jurisdiction in this case would be inconsistent with the policies of the Declaratory Judgment Act in that the present action would interfere with the ability of the United States District Court for the Eastern District of Texas to enforce its judgment and injunction in the original proceeding between the two parties. In addition, the statements giving rise to the alleged dispute in this case concern only matters adjudicated in Texas or that TiVo was placing before the Texas court for resolution in that proceeding. The Texas court already has substantial familiarity with the patent and technology at issue here. Finally, other equitable factors also favor dismissal.

Now therefore,

IT IS HEREBY ORDERED that the foregoing motion is granted, and that all claims against defendant TiVo Inc. are hereby dismissed.

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United States District Judge